
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

IBM COMPUTER TOWER, et al.,

Defendants.

**MEMORANDUM DECISION
AND ORDER**

Case No. 2:09CV 897DAK

Judge Dale A. Kimball

This matter is before the court on Interested Party Charles Lewis Searle's Motion for Writ of Replevin and Amended Motion for Writ of Replevin. Although the documents filed by Searle are only entitled "Writ of Replevin," they were docketed as motions. The government did not respond because it did not view the documents as motions. The court, however, ordered the government to respond to the documents, which it did on January 21, 2010.

A writ of replevin is not available to a claimant to recover seized property in a civil forfeiture case. 18 U.S.C. § 981(c) specifically prohibits replevin as a remedy for property that has been seized: "Property taken or detained under this section shall not be repleviable." The proper method for recovering seized property is by filing an answer and claim in the civil forfeiture action. The court, therefore, denies Searle's motion and amended motion for a writ of replevin.

The government, however, asserted that because Searle is proceeding *pro se*, it is willing to consider Searle's documents as answers and claims. The court, therefore, will construe Searle's two documents as an "answer and claim" and an "amended answer and claim" for

purposes of this forfeiture action.

DATED this 22d day of January, 2010.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball", is written over a horizontal line.

DALE A. KIMBALL
United States District Judge